

## Legal Notice

### **If You Are a Third-Party Payor Based In or With Beneficiaries In Massachusetts and You Made Reimbursements For Any of the Drugs Listed Below,**

### **Class Action Lawsuits May Affect Your Rights.**

There are class action lawsuits pending in the U.S. District Court for the District of Massachusetts under the name *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS.

The lawsuits claim that certain drug companies intentionally reported false and inflated average wholesale prices (“AWP”) for certain types of outpatient drugs. The reported AWP’s may be used to set prescription drug prices that are paid by insurers and other Third Party Payors (“TPPs”). The lawsuits ask the Court to award money damages to some TPPs who made reimbursements for the drugs. Defendants deny that they are responsible for any of the claims in the lawsuits. A series of trials will determine the claims in these lawsuits. The first trial will begin Month Date, 2006.

#### **What Drugs are Covered by the Litigation?**

Certain dosages of the following Covered Drugs made by the Defendants AstraZeneca, Bristol-Myers Squibb Group, Johnson & Johnson Group and Schering Plough Group are covered: Albuterol Sulfate, Bleomoxane (bleomycin sulfate), Cytosan (cyclophosphamide), Etopophos (etoposide phosphate), Intron A (interferon alfa-2b), Paraplatin (carboplatin), Perphenazine (perphenazine), Procrit (epoetin alfa), Proventil (albuterol sulfate), Remicade (infliximab), Rubex (doxorubicin hcl), Taxol (paclitaxel), Temodar (temozolomide), VePesid (etoposide) and Zoladex (goserelin acetate). These are referred to in this Notice as the “Covered Drugs.” For a complete list of the dosages by drug visit the Web site or call or write as indicated below for a detailed Notice.

#### **What do the Defendants say about the Litigation?**

The Defendants say they didn’t do anything wrong. Defendants deny that they are responsible for any of the claims made in the lawsuits and will vigorously defend against these claims. The Defendants deny the factual allegations being made; contend that the lawsuits and damages are precluded under the law; and that even if the alleged conduct is proven by the Plaintiffs it does not violate the law.

#### **Which TPPs Are Involved in the Litigation?**

The Court has ruled that there are two different types of Classes for TPPs who reimbursed for Covered Drugs: a MediGap TPP Class and a Private Payor TPP Class. A TPP could be a member of one or both Classes against one or more Defendant.

- A TPP is a member of the MediGap TPP Class against one or more Defendant if it made reimbursements for all or part of its insured’s 20% co-payment under Medicare Part B for Covered Drugs anytime between January 1, 1991 and January 1, 2005, or
- A TPP is a member of the Private Payor TPP Class against one or more Defendant if it reimbursed for Covered Drugs outside of Medicare Part B based on a contract that uses AWP as

a reimbursement benchmark anytime between January 1, 1991 and January 30, 2006.

In order to be a member of either a MediGap TPP Class or a Private Payor TPP Class against one or more Defendant, the reimbursements must have been for a beneficiary in Massachusetts or the TPP must have its principal place of business in Massachusetts.

**What Are a TPPs' Rights as a Member of Either or Both of the Classes?**

- If a TPP wishes to remain a member of either or both of the Classes, it doesn't need to do anything at this time. If it doesn't exclude itself, as a member of either Class it will be bound by whatever happens in the lawsuit against the Defendant, and it won't be able to sue the Defendant on its own about the claims in the lawsuit. Court-appointed Counsel will represent all Class Members and will ask the Court to pay their fees and expenses out of any recovery they achieve for the Classes. Class Members may also hire their own attorney at their own cost to speak or appear on their behalf.
- If a TPP does not wish to participate in either or both of the Classes, it must mail a signed, written request to be excluded, to the address below, indicating from which of the two types of Classes and from which Defendant Class or Classes the TPP wishes to be excluded. A TPP may also request to be excluded from the lawsuit against one or more Defendants and remain in the litigation against the other Defendants. The request must be postmarked by Month Date, 2006. If a TPP excludes itself from one or more of the Classes, it can't participate in any recovery for that particular Class, but keeps the right to sue the Defendant(s) on its own.

**For a Detailed Notice Form and Further Information on the  
Covered Drugs and AWP**

**Call toll-free: 1 XXX-XXX-XXXX or Visit: [www.AWPlitigation.net](http://www.AWPlitigation.net)**

**Or Write: AWP Class Action Litigation, P.O. Box XXX, City, State 00000**